...decision infringes upon constitutional guarantees provided for concretely in the Political Constitution of the State in its Articles 156 & 157 regarding the Social System which state, "EMPLOYMENT IS A DUTY AND A RIGHT, AND CONSITUTES THE BASIS OF [OUR] SOCIAL AND ECONOMIC ORDER, MOREOVER, IT ENJOYS PROTECTION BY THE STATE." The Constitutional Appeal that was processed and resolved on the first matter by the Social and Administrative Chamber of the Honorable Superior District Court declared it LAWFUL (See pgs. 79 to 80) providing "the invalidity of every action by the authority appealed, having to proceed in the manner as so corresponds." It should be mentioned, that in order to have me removed in this manner, they must present me with notice personally, subjecting themselves to the Statutes of the Administrative Tribunal, in accordance with what is provided for in Article 19 of the aforementioned Legal Body. This Constitutional Sentence was APPROVED by the Constitutional Tribunal by means of Sentence N° 1125/01-R, dated October 19, 2001 (See pgs 91 to 95). These documents merit credence as evidence for the express provisions of Article 1296 of the Civil Code.

However, having proceeded with serving notice through Ministry of External affairs and Worship by means of a Letters Rogatory with the constitutional rulings, presented to the Executive Secretary at FONPLATA, Mr. WALTER VILLALBA SALDIVAR (See pgs. 104 to 110) who replace Pedro Luiz Pinheiro Da Costa in the position, as well as the constant complaints (See pgs. 111 to 118) and the professional performance appraisal for 2000, 1998, 1997, and 1996, on the basis of which the GOVERNOR FOR BOLIVIA expressly instructed the extension of the last contract period (See pgs. 22). The FONPLATA Executive insists and persists in a beseeching manner to keep me outside the institution without any...

...just cause, infringing on the DUE PROCESS which by national provisions and International Agreements should be respected, violating my constitutional guarantees set forth in Articles 156 and 157 of the Social System in the Political Constitution of the State. Under no circumstances did they pay me in full my social benefits which ascend to the sum of US\$ 285,777.51 (TWO HUNDRED EIGHTY FIVE THOUSAND SEVEN HUNDRED SEVENTY SEVEN 51/100 AMERICAN DOLLARS) as can be evidenced by the attached Severance Slip which expressly states, subject to review and approval by the Ministry of Labor and Social Security.

It being totally ostensible that the former and the current Executive Secretary at FONPLATA, denied compliance with the CONSITUTIONAL rulings, as well as have no knowledge of the reports made on my behalf by the GOVERNOR FOR BOLIVIA, Lic. Ronald Maclean Abaroa, in his capacity as Minister of Finance, before the Organization and other Governors, to unilaterally by means of Memo SE 250/2000 communicate the discontinuance of my labor relationship with the Organization (FONPLATA) without any defense, complying with FONPLATA's Administrative Tribunal Statutes, constituting this in a FORCEFUL REMOVAL, since in its Article 19 it sets forth that the Executive Secretary should provide for my personal notice, so as to, comply with what is set forth in the aforementioned Article 19, and I quote, "The recourse for appealing before the Tribunal shall be filed, without the penalty of lapsing, within thirty (30) days commencing with and following the PERSONAL NOTIFICATION of the APPEALING PARTY." In rejecting my petition the also don't want to pay me the social benefits which by law correspond to me, in spite of the existence of a CONSTITUTIONAL SENTENCE, it being therefore a totally unconstitutional and illegal decision, to the extent of committing a violation of...

... law of DISOBEDIENCE TO THE RESOLUTIONS IN AN HABEAS CORPUS PROCEEDING AND CONSTITUTIONAL DEFENSE as established in Article 179 Twice of the Penal Code, which in protecting my rights, I will apply whatever way deemed necessary.

For having failed to act on the obligation of the Constitutional Proceedings resolved by the Constitutional Tribunal, as well as the constant claims made not only through the Ministry of Foreign Affairs, but also directly through letters, and not obtaining a favorable response thereto, and with this petition holding to the provisions of Articles 117 to 120 of the Proceedings Code for Labor Matters, I am obliged to file suit for the Payment of Social Benefits for the sum of US\$285,777.51 (TWO HUNDRED EIGHTY-FIVE THOUSAND SEVEN HUNDRED SEVENTY'SEVEN 51/00 AMERICAN DOLLARS) directing the legal action against the legal representative of the Fondo Financiero para el Desarrollo de la Cuenca del Plata, Mr. WALTER VILLALBA SALDIVAR, since the former [representative], Mr. Pedro Luiz Pinheiro Da Costa, was removed from his position, seeking protection in Articles 4, 6, 10, 12, 13, 44, 48, and 57 of the General Labor Law; and Articles 156 and 156 of the Political Constitution of the State; and Article FOURTEEN of the Master Agreement between the Government of the Republic of Bolivia and the Fondo Financiero para el Desarrollo de la Cuenca del Plata FONPLATA, petitioning that Your Honor admit the matter and impart the formalities of Law until the status of pronouncing sentence thereon, declaring PROVEN my claim, and accordingly order the payment and settling the manner I have presented within the term of the third day, plus court costs and expenses.

1ST ADDITIONAL PETITION. The Fondo Financiero para el Desarrollo de la Cuenca del Plata-FONPLATA and its legal representative, Mr. WALTER VILLALBA SALDIVAR, Executive Secretary for FONPLATA have their...

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... legal domicile in the FONPLATA offices located at Av. Irala 573 [Santa Cruz, Bolivia].

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2ND ADDITIONAL PETITION. Taking into consideration that the FONPLATA Executive Secretary, Mr. Walter Villalba Saldivar, is an employee that Bolivia had the courtesy to grant a Diplomatic rank, I request of Your Honor that the notice served to him be done via the Ministry of Foreign Affairs and it also be by Letters Rogatory, inserting the pertinent charges, especially the summons, with his legal domicile being Av. Irala N° 573.

3RD ADDITIONAL PETITION. Since the defending party is an International Body, I petition of Your Honor that intervention be through the Office of the Attorney General (Ministry of the Public) and the Ministry of Foreign Affairs.

4TH ADDITIONAL PETITION. I am attaching in the capacity as preconstituted documentary evidence the documentation on pgs 130.

5TH ADDITIONAL PETITION. I request that Your Honor order that the [original] Master Agreement between the Government of Bolivia and the Fondo Financiero para el Desarrollo de la Cuenca del Plata FONPLATA, be removed from the court records and held, and in its place should remain duly legalized photocopies thereof.

6TH ADDITIONAL PETITION. The professional fees be based on the contract signed by both parties.

7TH ADDITIONAL PETITION. Domicile: Av. Monsenor Rivero No. 245, Third Floor, of 3-4.

Justice, etc... - Santa Cruz[, Bolivia], October 9, 2002.

Illegible Signature - Oscar David Cortez Uzeda - Plaintiff.

Illegible Signature - Rodolfo Melgarejo del Castillo - Attorney.

SUPREME COURT'S ACKNOWLEDGEMENT OF RECEIPT ENTERED ON PAGE 125. Submitted at 11:40 on October 24, 2002...

... Be it hereby stated and recorded. Documents are attached on page 121.

(

Illegible signature. Katherine Vaca Frias. Assistant of the Social and Administrative Division. Santa Cruz – Bolivia.

Assignment of cases. Supreme Court of Justice, Social and Administrative Division. Assigned to the First Court on Labor and Social Security Matters.

Johnny Vaca Diez. V.D., Judge of the Court, Social and Administrative Division. Superior District Court.

Danny Camacho Pereyra. Court Clerk, Social and Administrative Division of the S.R. Superior District Court.

## COURT'S ACKNOWLEDGEMENT OF RECEIPT ENTERED ON PAGE 125.

Received at 11:30 on October 25, 2002 and processed on the same day. Documents are attached on page 121. Be it hereby stated and recorded.

Illegible signature. Glessy Antelo Salas. Assistant of the First Court on Labor and Social Security Matters.

## ADMISSION OF COMPLAINT ENTERED ON PAGE 126.

on October 29, 2002.

HAVING REVIEWED the documents attached to the complaint; and

CONSIDERING that the review of such documents and the complaint entered on pages 112 to 125 evidences that such document meet the requirements established in Section 117 of the Code of Labor Procedure,

THEREFORE, as regards the law, this complaint filed by OSCAR DAVID CORTEZ UZEDA against the FONDO FINANCIERO PARA EL DESARROLLO DE LA CUENCA DEL PLATA – FONPLATA, represented by its current Executive Secretary for Bolivia, Mr. Walter Villalba Saldivar, is admitted and Defendant is requested to answer, under the...

...penalties prescribed by the law.

First additional pleading: Consider the domicile of the Executive Secretary of FONPLATA, Walter Villalba Saldivar, stated at Ave. Irala No. 573.

Second additional pleading: Enforce Section 4 of Supreme Decree 08270 dated February 21, 1968, and summon Defendant through the General Foreign Office of the Republic by means of a Letter Rogatory, at the domicile referred to above, Ave. Irala No. 573.

Third additional pleading: Considering it is an International Agency, inform the General Foreign Office of the Republic and the Office of the Attorney General about such complaint.

Fourth additional pleading: It is acknowledged.

Fifth additional pleading: Through the Clerk, remove pages from the records, leaving authenticated copies in stead.

Seventh additional pleading: It is acknowledged.

Fourth additional pleading: Consider the domicile for service of process stated at Ave. Monseñor Rivero No. 245, in this city.

BE IT RECORDED AND NOTIFIED.

Illegible signature. Mr. Severo Hurtado Ribera. First Judge on Labor and Social Security Matters. Santa Cruz, Bolivia.

Before me. Illegible signature. Ma. Roxana Encinas Castedo. Clerk of the First Circuit Court on Labor and Social Security Matters in and for the Capital City.

Recorded in Book No. 02/02.

Illegible signature. Glessy Antelo Salas. Assistant of the First Circuit Court on Labor and Social Security Matters. Superior District Court. Santa Cruz, Bolivia.

NOTHING ELSE TO ADD WITH RESPECT TO THE RELEVANT PURPOSES.

Santa Cruz de la Sierra. October 31, 2002...

Law Firm Melgarejo & Asociados

TO YOUR HONOR FIRST JUDGE ON LABOR AND SOCIAL SECURITY MATTERS.

Entry of appearance.

First additional pleading: The Letter Rogatory is returned.

Other additional pleadings.

RODOLFO MELGAREJO DEL CASTILLO and KARINA ARTEAGA ROJAS, in the labor proceedings filed against FONPLATA, before Your Honor, state the following:

By virtue of Certified Copy No. 1572/2002 of the special power of attorney duly granted before Notary Public of First Class No. 13, under the responsibility of Mr. David A. Paniagua Figueroa, we appear and hereby request that our capacity as a party to this case be acknowledged and that notice be served on us with respect to any further proceedings.

First additional pleading: Having served the Letter Rogatory issued under your authority, through the Foreign Office of the Republic, we return such instrument and request that it be entered into the records of the case.

Second additional pleading: Since the Defendant agency was summoned and failed to answer within the legal term (5 days pursuant to Section 124 of the C.P.T.), we hereby request Your Honor that Defendant be held in default in accordance with Section 141 of the abovementioned regulation.

Third additional pleading: Once Your Honor declares Defendant in default, we hereby request that the domicile for service of process of FONPLATA be established at the Clerk's Office, upon the compliance of any legal formalities.

Let justice be done. Santa Cruz, January 7, 2003

[Illegible signature] [Seal: Rodolfo Melgarejo del Castillo. Attorney. Court register 473. Bar Association 327. License 6565. Income registration 7080001579-3]

And Attorney-in-Fact [illegible signature]

Av. Monseñor Rivero 245. Edif. Monseñor Rivero Piso #3. Of. 3-A. Phone No. 369177 334701. Fax No. 339970. Santa Cruz. Bolivia.

Received at 16:14 on January 07, 2003. Be it hereby stated and recorded. 8 pages attached.

[Seal: Glessy Antelo Salas - COURT ASSISTANT - FIRST CIRCUMSCRIPTION ON LABOR AND SOCIAL SECURITY MATTERS - SUPERIOR DISTRICT COURT - SANTA CRUZ - BOLIVIA]

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## AFFIDAVIT OF TRANSLATOR

STATE OF NEW YORK	)	
	)	SS.:
COUNTY OF NEW YORK	)	

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I, FERNANDO PLANCHART, being duly sworn, depose and state:

- 1. That I reside at 101 West 78th Street, New York, NY 10024;
- 2. That I am proficient in translation of the Spanish language into the English language; and
- 3. That I certify that, to the best of my knowledge, the attached translation is accurate.

FERNANDO PLANCHART

Sworn to before me this <u>g</u>th day of August, 2007

NOTARY PUBLIC

KATERINA I. GRAJALES Notary Public, State Of New York No. 01GR5010801 Qualified in N.Y. County Commission Expires 4/5/20 11 Manuel Cortéz Moscoso SECRETARIO - ABOGADO SECRETARIO - ABOGADO JUZGADO 20b, DE TRABAJO Y S.S. SANTA CRUZ - BOLIVIA



## MUY URGENTE

La Paz, 13 NOV. 2002 GM-DGAJ-1314 /9862 CLASIFICACIÓN: ORDINARIA

Al señor: Lic. Walter Villalba Saldivar SECRETARIO EJECUTIVO DE FONPLATA Av. Irala Nº 573 Santa Cruz.-

Ref. Remisión de exhorto

Señor Secretario Ejecutivo:

EPUBLICA DE BOLIVIA

VISTERIO DE RELACIONES EXTERIORES Y CULTO

Para su conocimiento y fines consiguientes, tengo a bien remitir en anexo, el exhorto suplicatorio librado por el Dr. Severo Hurtado Ribera, Juez Primero de Partido de Trabajo y Seguridad Social del Distrito Judicial de Santa Cruz, en la demanda laboral de cobro de beneficios sociales interpuesta por Oscar David Cortéz Uzeda contra el Secretario Ejecutivo de Fonplata.

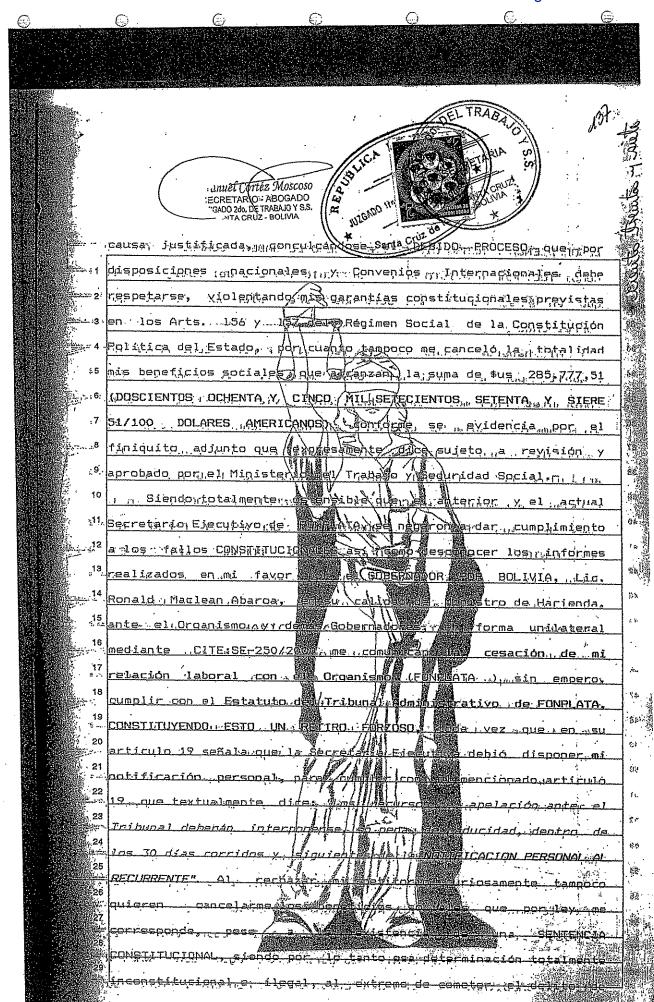
Con este motivo, expreso a usted las seguridades de mi más distinguida consideración.

Anexa: Lo citado

Edgar Pinto Tapia
DIRECTOR GENERAL DE ASUNTOS DILATERALES Min. Relaciones Exteriores y Culto POR INSTRUCCIONES DEL SESOR VICE MINISTRO DE POLITICA EXTERIOR

aldilla: 'Pategold's Filoriodarios (Thiternarionalu (Fs. . 30 disposicídnes‼'de X'Pólítica: Internacional 31 <u>los plazos de los contratos y períodos de prueba de</u> . 32 <u>incionários internacionales que se designa en FONPLATA y </u> 33 están sujetos a los siguichtes terminhs ((Eerli)):"! 34 b) » Cumplido el periodo de prueba se celebrará en su caso el 35 <del>contrato por un término de dos años.---</del> Vencido el término de dos años, el contrato podrá 1 36 <del>-prorrogado de común acuerdo entre FONPLATA y el funcionari</del>c por dos periodos de dos años cada uno.----37 . 38 En este sentido son 7 años de contrato, esto es, 1 año de -prueba y 3 períodos de 2 años cada uno. Ahora bien, de acuerdo . 39 養 ·las Cartas Prorrogas de Contratos de fechas 18 de Abril de 1.997 . 😢 43 (Fs. 4 a 5) y 18 de Noviembre de 1.998 (Fs. 6 a 7) el Directorio 42 Ejecutivo de FONPLATA dispuso la prorroga de mi contratación 43 el mismo cargo y bajo la misma categoría, esto es, por dos (2) -periodos más, quedando pendiente un otro periodo de dos años retreet the control of the control o 45 prorroga de Contrato.--1,1,1,1 46 Sin embargo, en la 98ª Reunión del Directorio Ejecutivo The till the street the 47 . . . . . . . . . . . . . . . en virtud de haber considerado supuestamente la Rotatividad Control of the district of the control of the con-48 cargos desde las Jefaturas de Areas y otros, entre ellos la The second secon 19 punto 7.2.1.; el el Directorio Ejecutivo Alexander and the state of the 50 ilegalmente decide NO prorrogar el plazo de . HOUSE TREATED TO A TONGE, AND THERE -trabajo (Vease fs. 17); fundamentando erróneamente su FAR - PROTECTION OF REPORT una supuesta rotatividad de cargos, cuando condiciona textualmente "El inicio del proceso de convocatoria para el cargo de Tesorero-estará sujeto a las deliberaciones de Nombre esta Congressión (1997) (1997) (1997) (1997) 1 15. 1 (0 24) 2211 11 11 Directorio Ejecutivo con relación a la rotatividad de expresamente rechazada por el Ministro Gobernador de Bolivia ante FONPLATA (máxima el Organismo), que fijo su posición en comunicaciones (Vease -- fs. 18 a 23) a sus pares los Ministro-Gobernadores de Brasil,

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36	Respetable Corte Superior del Distrito declarándolo PROCEDENTE
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39	<u>corresponde", vale decir, que para retirarme de esa forma</u>
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DESOBEDIENCA A RESOLUCIONES EN PROCESO DE HABEAS CORPUS Y AMPARO CONSTITUCTONAL 'previsto 'en' 'el' artículo 179 Bis del Código Penal - que en'u resquardo de mis derechos haremvaler por la vía que 'corresponde' -----[m.]: "Ali" haberse'-'hecho' 'casò' 'omlso' al"" Amparo Constitucional resuelto: por el CTribunal cònstitucional, así como a los - Constantes ! Weckamos! Weal ! zados tanto : via ! vi directamente mediante cartas; al(Cho') obtener una respuesta <u>favorable, quardando la 'presente"demanda las previsiones de los </u> artículos 117 a 1120 del Código Procesal del'Trabajo, me ved obligado<sup>ts</sup> a demandar" el'COBRO DE MIS BENEFICIOS SOCIALES en la 'sluma' ' defin' -\$us' '285.777.51' (DOSCIENTOS) DCHENTA' Y CINCO \*SFTECIENTOS SETENTA TY WISTETE STV100 " DOLARES AMERICANOS) lirigiendo la acción en «contra del personero Financiero "dara el" Desarrollo de WALTER " VILLAL BA SALDIVAR : <u>funciones sl"anterior, "señor Padro luiz Pinheir</u> amparado. én line articulos 4 16.010, 1700 1113 .44. 48 Adagony ~ Golfa Yallaha <del>'termino de tercero día, más gastos y costas del</del> OTROST - 10: -- El- Fondo Financiero para Plata - FONPLATA y -Becr<sup>l</sup>etario<sup>,</sup> Ejecutivo de FONPLATA,

Case 1:07-cv-07965-NRB Document 4-8 Filed 09/17/2007 Page 17 of 20 Manuel Cortez Moscoso SECRETARIO - ABOGADO JUZGADO 2do. DE TRABAJO Y S.S. SANTA CRUZ - BOLIMA domicilio en 10 12 4 14 a li 15 ۲. 34 16 र क 17 5.4 18 <u>lideBiendo</u> PA. 19 1 20  $G \otimes_{\mathbb{Z}}$ 21 22 \*\*\* 23 24 CARGO DE LA CORTE DE FS. 125. Presentado a horas 11:40 del dra veinticuatro de octubre del ano

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2,002. - conster Adi. . . doc. Auxiliar Ilegible.- Katherine Vaca 1.30 Spcial, y Administrativa. - Santa Cruz - Bolivia. -----3.1 \*\*Sorteo. de Cambas. Il Corte Supenior de Justicia Sala Social 32 Administrativa. - Sorteado al Juzgado 19 de Trabajo y S.S.-33 Corte, Sala Social ...Dr., Johnny , Yaca Diez , V.D. ... , Yocal , de Administrațiva. - Corte Superior de Distrito. -35 Dra. Danny Camacho Pereyra, Secretaria de Camara 36 la Corte 37 S. R. Social y Administrativa...de 38 Distrito.---39 40 CARGO, DEL JUZGADO DE FS., 125.-41 de octubra a horaș once y treinta del dia . 42 año 2.002.- ingreso a despacho, en el dia.- Adj. Doc. en fs 43 44 del ' Ilegible.- Glessy Antelo Salas.- Auxiliar, 45 46 47 ADMISION DE DEMANDA DE Fs. 48 49 i: 'šo 51 52 54 . ₹. 55 de OSCAR, 5 56 5 57 . 58



SEROR JUEZ PRIMERO DEL TRABAJO Y SEGUR DAMBIL CONTRETARIO ABORDO

Apersonamiento:-

OTROSINIO POMBLE DE Vuelve exhorto suplicatorio.

OTROSIES. - Trans are across

RODOLFO MELGAREJO DEL CASTILLO y KARINA ARTEAGA ROJAS en el proceso laboral seguido contra FONPLATA, ante Ud.

respetuosamente decimos:

En mérito al Testimonio Nº 1572/2002 sobre poder especial y bastante otorgado ante Notario de Fe Pública de Primera Clase Nº 13 a cargo del Dr. David A. Paniagua! Figueroa.

nes permitimos apersonarnos, pidiendo se sirva tenernos como parte en el presente caso de autos y disponer se entiendan con nuestras personas ulteriores diligencias.

OTROSI 10. - Habiendo sido dilligenciada el Exhorto Suplicatorio de la librado por su autoridad, a traves de la Cancillería de la República, nos permitimos devolver el mismo y pedimos se adjunte de corados.

OTROSI 20.- Toda vez que la institución demandada no obstante a su citación, no ha contestado dentro del plazo legal (5 días art. 124 C.P.T.), solicito a su autoridad se digne declararla rebelde y contumaz, sea conforme a lo previsto en el artículo de la norma adjetiva laboral.

OFROSI 30. - Una vez su autoridad declare rebelde y contumaz a la institución demandada, pido se tenga como domicilio procesal de republica de repub

Justicia, etc..

Santa Cruz, 7 de enero de 2003

y Apoderado

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AN . (

Rocolfo Melgarejo del Castille missior Rivero #245 Edif Monseñor Rivero Piso # 3 Of. 3-A Fonos: 369177 334701: Faz 3399 Reg. Corte 473 - Col. Abog. 327

By .---